

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

March 10, 2004

GSBCA 16343-RELO

In the Matter of JAGDISH C. BHANDARI

Jagdish C. Bhandari, Raleigh, NC, Claimant.

Robert Cooke, Chief, Fiscal Services Branch, Food Safety and Inspection Service,
Department of Agriculture, Washington, DC, appearing for Department of Agriculture.

DeGRAFF, Board Judge.

In late 2003, the United States Department of Agriculture (USDA) transferred Jagdish C. Bhandari from one permanent duty station to another. In connection with the transfer, USDA authorized Mr. Bhandari to incur reimbursable real estate sales transaction expenses. When Mr. Bhandari asked USDA to reimburse him for expenses associated with the sale of his residence at his old duty station, USDA decided the expenses were not reimbursable because title to his residence was held solely by a married son who was not a member of Mr. Bhandari's household. Mr. Bhandari asks us to review USDA's decision.

According to the statute and regulations that apply to Mr. Bhandari, USDA could reimburse residence sales transaction expenses he was required to pay if title to the residence was held by him alone, jointly with a member of his immediate family, or by an immediate family member alone. 5 U.S.C. § 5724a(d)(1), (6) (2000); 41 CFR 302-11.101 (2003). His immediate family did not include either married children or children who were not members of his household. 41 CFR 300-3.1. In order to determine who held title to the residence, the regulations required USDA to look at whose name appeared on the deed when Mr. Bhandari was notified of his transfer, and to consider whether Mr. Bhandari had an equitable title interest in the property. 41 CFR 302-11.102, -11.104, -11.105.

USDA correctly determined it could not reimburse Mr. Bhandari for the expenses associated with the sale of his residence because when Mr. Bhandari was notified of his transfer, title to his residence was held by a married son who was not a member of Mr. Bhandari's household and Mr. Bhandari did not have an equitable title interest in the property. In his submissions to us and to the agency, Mr. Bhandari says his son held title to Mr. Bhandari's residence for tax reasons. Although Mr. Bhandari and his son might have arranged their affairs in order to gain a tax advantage, the arrangement is such that USDA cannot reimburse Mr. Bhandari for the expenses associated with the sale of his residence.

The claim is denied.

MARTHA H. DeGRAFF
Board Judge